IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 10927 of 2005(A)

PETITIONER:

SAJU BAL, MANAPPILLIL HOUSE,
KOTTAPPADY P.O., KOTHAMANGALAM VIA.,
ERNAKULAM DISTRICT.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA
SRI.K.I.SAGEER

RESPONDENTS:
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1. **KOTTAPPADY GRAMA PANCHAYAT,**
   REPRESENTED BY ITS SECRETARY, OFFICE OF THE
   KOTTAPPADY GRAMA PANCHAYAT, KOTHAMANGALAM-VIA,
   ERNAKULAM DISTRICT.

2. **THE PRESIDENT, KOTTAPPADY GRAMA**
   PANCHAYAT, KOTHAMANGALAM-VIA,
   ERNAKULAM DISTRICT.

3. **THE ASSISTANT EXECUTIVE ENGINEER,**
   DISTRICT RURAL DEVELOPMENT AGENCY,
   ERNAKULAM, KAKKANAD.

BY ADV. SRI.RAJESH VIJAYAN
BY GOVERNMENT PLEADER SMT.R.BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 10927 OF 2005-A

JUDGMENT

The petitioner did a work for the Kottappady Grama Panchayat under the Peoples Planning Programme. It was a work of repairing a portion of the Thrikkariyoor – Vadakkumbhagom road. The work was completed and Ext.P5 bill was passed by the competent authorities for an amount of Rs.Two lakhs. But, the amount has not, so far, been disbursed. While so, the Panchayat Committee constituted a Sub Committee consisting of three members of the Panchayat, to inspect the site and submit a report, as per Ext.P8 resolution. Thereafter, Ext.P9 representation was filed by the members of the beneficiary committee, claiming payment of the amount. Later, the Panchayat passed Ext.P10 resolution on 18.12.2004, to pay the amount, after getting an opinion from the Engineering Wing of the Panchayat Department or from some other competent authority. Again the petitioner submitted Ext.P11 representation, claiming release of the amount. Feeling aggrieved by the further delay in honouring the bill, this Writ Petition was filed.

2. The 2nd respondent has filed a counter affidavit, resisting the

prayers in the Writ Petition. According to the said respondent, the Sub Committee appointed by the Panchayat has submitted Ext.R2(a) report, stating that serious irregularities have taken place in the award of the work and that all the proceedings are vitiated by corruption. The Panchayat by Ext.R2(b) communication, informed the District Collector that in view of the serious irregularities in the execution of the work, the amount payable to the petitioner, who is the convener of the beneficiary committee, was not paid. As evident from Ext.R2(c), an enquiry is going on against Mr.Sivankutty, who is stated to be an Engineer of the Panchayat Department and also against a few others, concerning corruption in executing the works in the Panchayat. It is also pointed out that the Panchayat has filed a complaint which is produced as Ext.R2(d) before the Director of Vigilance, to enquire into the work done by the petitioner.

3. The petitioner has filed a reply affidavit, denying all the allegations in the counter affidavit. According to him, the present Panchayat Vice President has got an axe to grind against him, as the petitioner did not pay the contribution demanded, when he was contesting the election to the Panchayat Committee. Other allegations are also raised.

4. Heard the learned counsel on both sides. This Court has repeatedly stated that in matters relating to non-payment of contractors'

bills, it can interfere only to issue directions to pay the admitted bill amounts. Going by the pleadings and the submissions of the parties, this is a case where this Court cannot issue any direction to pay the amount claimed by the petitioner. For that, he has to move the competent civil court and obtain a decree. If the case of the petitioner is correct, he can claim payment of the amount with interest. He can also raise additional claim for damages. Therefore, the Writ Petition is dismissed without prejudice to the contentions of both sides and the right of the petitioner to move other forums for appropriate reliefs.

19th January, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/